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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,126	07/24/2002	Alain Goux	P22010	3526
7055	7590	10/15/2004	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			SALVATORE, LYNDA	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/069,126	GOUX ET AL.
	Examiner Lynda M Salvatore	Art Unit 1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 June 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 15-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 15-38 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>08/01/02</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 15-33 in the reply filed on 06/28/04 is acknowledged. The traversal is on the ground(s) that unity of invention exists between Group I and Group II. Applicant's arguments are not found persuasive on the grounds that though Group I and Group II claims share common technical features, they fail to provide a distinction over the prior art. Thus, they do not meet the criteria found in PCT rules 13.1 and 13.2. As such, since there is no special technical feature, lack of unity is maintained. The requirement is still deemed proper and is therefore made FINAL. Claims 15-33 will be examined on the merits.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedel et al., US 5,631,073 in view of Ando et al., US 5,334,686.

The patent issued to Riedel et al., teaches a non-woven sheet and pressure sensitive adhesive tapes formed therefrom (Abstract). With regard to the felt or needle-bonded limitation, Riedel et al., teaches forming a non-woven by physical entanglement or needling (Column 6, 57-62). With regard to the adhesive layer limitation, Riedel teaches coating a layer of pressure sensitive adhesive onto the non-woven sheet (Column 9, 22-25). With regard to the rolling and winding limitations, Riedel et al., teaches that

the non-woven sheet material may be conveyed directly to an adhesive coater, followed by slitting into individual tape rolls. With regard to the limitation of coating the opposite side of the non-woven support with an anti-varnish, Riedel et al., teaches the use of a releasable liner that covers the adhesive layer or a release coating, such as a low adhesion backsize, coated on the non-adhesive side of the tape to facilitate the winding of the tape into rolls (Column 10, 46-53). With regard to the thickness limitation, Riedel et al., teaches a thickness ranging from .04mm to about .5mm in thickness (Column 6, 31-35). With regard to the surface mass limitations, Riedel et al., teaches a weight ranging from 10 g/m<sup>2</sup> to about 100 g/m<sup>2</sup> (Column 6,35-41). With regard to the calendaring limitations, Riedel et al., teaches pattern embossing or flat calendaring the non-woven sheet (Column 23, 5-25). With regard to the fiber material limitations, Riedel et al., teaches a non-woven structure formed form a variety of materials such as polyester staple fibers (Column 5, 8-23). In addition, Riedel et al., also teaches employing polyester, polyethylene, polypropylene or polybutylene binder fibers in amount ranging from 5-50% (Column 5,50-Column 6, 30). With regard to the ratio of polyester to viscose fibers, Riedel et al., teaches in various examples illustrating the use of a fiber mixture consisting of 50% PET (polyethylene terephthalate), 30% rayon (viscose), and 20% diawa (binder fibers) (Column 15, table 3).

With regard to thickness of the adhesive coating, Riedel et al., fails to specifically teach the thickness of the adhesive coating, but the patent issued to Ando et al., teaches a pressure sensitive adhesive tape with an adhesive coating thickness of 50 microns (Column 4, 58-63). Ando et al., also teaches the method step irradiating with ultraviolet

rays (Column 4, 58-63). Suitable support layers include non-woven fabrics (Column 4, 5-14).

Therefore, motivated by the desire to provide a pressure sensitive adhesive with suitable adhesive properties it would have been obvious to one having ordinary skill in the art to coat non-woven substrate of Riedel et al., with the coating thickness taught by Ando et al.

With regard to the viscosity of the adhesive, the combination of prior art fails to explicitly teach the adhesive viscosity when applied to the non-woven support layer, however, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art to provide an adhesive coating with a suitable viscosity to facilitate the application method. It has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272,205 USPQ 215 (CCPA 1980)

With regard to limitation of taping bundles of cables in a motor vehicle, it is the position of the Examiner that said limitations constitute intended use limitations. As such, since the prior art meets all of the structural and/or chemical limitations there is nothing on record to indicate that the pressure sensitive adhesive tape provided by the combination of prior art could not function in the desired capacity. Applicant is invited to prove otherwise.

With regard to the physical property limitations of tearing effort, tearing resistance, modulus at elongation, unrolling effort and elongation break, the combination of prior art fails to explicitly teach these features, however, it is the position of the Examiner that said limitations are inherent to the adhesive tape provided by Riedel et al.,

in view of Ando et al. Support for said presumption is found in the use of like materials (i.e., a non-woven substrate comprising rayon, polyester, PET and pressure sensitive adhesive) and the use of like processes such as curing with ultraviolet rays which would result in the claimed tearing effort, tearing resistance, modulus at elongation, unrolling effort and elongation break properties. Applicant is invited to evidence otherwise.

4. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedel et al., US 5,631,073 in view of Ando et al., US 5,334,686, as applied to claim 15 above, and further in view of Richardson et al., 6,200,677.

The combination of prior art fails to teach a powder based adhesive, however, the patent issued to Richardson et al., teaches a pressure sensitive adhesive tape suitable for use to bind together wires and cables in vehicles (Column 1, 20-25 and Title). The adhesive may be a powder based polyester (Column 2, 27-33). Though Richardson et al., does not explicitly teach the benefits of employing a powder based adhesive, it is the position of the Examiner that such an adhesive would be advantageous since powders can be sprinkled onto an exposed surface and because of the porous nature associated with non-woven substrates, the powder adhesive can thoroughly penetrate the non-woven substrate.

Therefore, motivated by the desire to provide a pressure sensitive adhesive suitable for use in vehicle manufacture, it would have been obvious to one having ordinary skill in the art to form the pressure sensitive adhesive tape taught by the combination of Riedel et al., in view of Ando et al., with the powder polyester adhesive taught by Richardson et al.

With regard to the amount of adhesive applied to the non-woven substrate, Richardson et al., fails to teach the claimed amount range, however, it is the position of the Examiner that it would have been obvious to one having ordinary skill in the art to optimize the amount of adhesive applied to the non-woven substrate as a function of desired adhesive strength and penetration. It has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272,205 USPQ 215 (CCPA 1980)

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 4, 2004



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